

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

DARROLL C. LAMBERT

v.

JOHN MICHALAK

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**Civil Action No. 3:15-0793
Judge Nixon/Knowles**

REPORT AND RECOMMENDATION

The Honorable Judge Nixon entered an Order on August 19, 2015 (Docket No. 4), directing the Clerk's Office to send a service packet for each named defendant in this action to the plaintiff. The completed service packets should have been returned to the Clerk's Office within thirty (30) days of the date of receipt of that order.

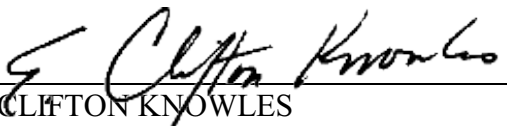
The order and a service packets were mailed to the plaintiff by certified mail on the date the Order was filed. There is no indication in the file that Defendants have been served with the Summons and Complaint.

Rule 4(m) of the Federal Rules of Civil Procedure provides in pertinent part as follows:

Time Limit for Service. *If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.*

As of the date of the filing of this Report and Recommendation, Plaintiff has failed to comply with Judge Nixon's Order. The Court also notes that Order was returned to the Clerk's Office as "Undeliverable". Docket Nos. 6, 7. Therefore, the undersigned recommends that this action be dismissed without prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.



E. CLIFTON KNOWLES
United States Magistrate Judge